# Unconscious Racism---Antiethics

## 1

### Antiethics

#### LINK: The aff has no chance of solvency. Whiteness uses blackness as its inferior opposite this perception occurs primarily in the unconscious and makes all negative material impacts inevitable for the black. The affirmative does not challenge the unconscious criminalization of black bodies allows nullification asks as a mask by assuming it can change unconscious racism.

**LAWRENCE Professor of Law @ Stanford University 1987** Charles; “The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism” Stanford Law Review, Vol. 39, No. 2 (Jan., 1987), pp. 317-388

This article's discussion of the stigma theory has anticipated the third likely challenge to my thesis that **equal protection doctrine must address the unconscious racism that underlies much of the racially disproportionate impact of governmental policy.** **This** challenge questions how a court would identify those cases where unconscious racism operated in order to determine whether to subject an allegedly discriminatory act to strict scrutiny. I propose a test that would look to the "cultural meaning" of an allegedly racially discriminatory act as the best available analogue for and evidence of the collective unconscious that we cannot observe directly. This test would evaluate governmental conduct to see if it conveys a symbolic message to which the culture attaches racial significance. The court **would analyze governmental behavior much like a cultural anthropologist might: by considering evidence regarding the historical and social context in which the decision was made and effectuated. If** the court **determined by a preponderance of the evidence that a significant portion of the population thinks of the governmental action in racial terms, then it would presume that socially shared, unconscious racial attitudes made evident by the action's meaning had influenced the decisionmakers.** As a result, it would apply heightened scrutiny.177 The unconscious racial attitudes of individuals manifest themselves in the cultural meaning that society gives their actions in the following way: **In a society that no longer condones overt racist attitudes and behavior, many of these attitudes will be repressed and prevented from reaching awareness in an undisguised form.178 But as psychologists have found, repressed wishes, fears, anger, and aggression continue to seek expression, most often by attaching themselves to certain symbols in the external world.'79 Repressed feelings and attitudes that are commonly experienced are likely to find common symbols particularly fruitful or productive as a vehicle for their expression. Thus, certain actions, words, or signs may take on meaning within a particular culture as a result of the collective use of those actions, words, or signs to represent or express shared but repressed attitudes.**'80 The process is cyclical: The expression of shared attitudes through certain symbols gives those symbols cultural meaning, and once a symbol becomes an enduring part of the culture, it in turn becomes the most natural vehicle for the expression of those attitudes and feelings that caused it to become an identifiable part of the culture.18 **Cognitive theory provides an alternative explanation of why the racial meaning the culture gives an action will be evidence of the actor's unconscious racial motivation. According to cognitive theory, those meanings or values that are most deeply ingrained in the culture are commonly acquired early in life through tacit lessons. They are, therefore, less recognizable and less available to the individual's consciousness than other forms of knowledge. Looked at another way, if the action has cultural meaning, this meaning must have been transmitted to an individual who is a member of that culture. If he professes to be unaware of the cultural meaning or attitude, it will almost surely be operating at an unconscious level. 82 Thus, an action such as the construction of a wall between white and black communities** in Memphis183 would have a cultural meaning growing out of **a long history of whites' need to separate themselves from blacks as a symbol of their superiority.** Individual members of the city council might well have been unaware that their continuing need to maintain their superiority over blacks,'84 or their failure to empathize with how construction of the wall would make blacks feel, influenced their decision.'85 But if one were to ask even the most self-deluded among them what the residents of Memphis would take the existence of the wall to mean, the obvious answer would be difficult to avoid.'86 If one told the story leading to the wall's construction while omitting one vital fact-the race of those whose vehicular traffic the barrier excluded-and then asked Memphis citizens to describe the residents of the community claiming injury, few, if any, would not guess that they were black. **The current racial meanings of governmental actions are strong evidence that the process defects of group vilification and misapprehension of costs and benefits have occurred whether or not the decisionmakers were conscious that race played a part in their decisionmaking.** Moreover, actions that have racial meaning within the culture are also those actions that carry a stigma for which we should have special concern. **This** is not the stigma that occurs only because of a coincidental congruence between race and poverty. The association of a symbol with race is a residuum of overtly racist practices in the past: The wall conjures up racial inferiority, not the inferiority of the poor or the undesirability of vehicular traffic. And **stigma** that has racial meaning **burdens all blacks and adds to the pervasive, cumulative, and mutually reinforcing system of racial discrimination.**

The 1ac misses the point. The affirmative has no way to address the way that black bodies are seen perceptually in the society the black bodies is always already seen as criminal and guilty this society through media images, surveillance tactics etc…This puts anti-blackness squarely into the ethos of the society writ large and into the white psyche particularly the material change the aff seeks will be undercut by the racist perceptions of blacks justice is impossible.

You are perceiving an injustice without looking to their perception—they don’t perceive niggas getting shot as unjust

#### LINK: Jury nullification is rooted within Unconscious Racism- the affs focus on individuals nullifying in perceived injustices advances the disease of unconscious racism rather than acting it completely.

**LAWRENCE Professor of Law @ Stanford University 1987** Charles; “The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism” Stanford Law Review, Vol. 39, No. 2 (Jan., 1987), pp. 317-388

It may often be appropriate for the legal system to disregard the influence of the unconscious on individual or collective behavior. But **where the goal is the eradication of invidious racial discrimination**, the law must recognize racism's primary source. The equal protection clause requires the elimination of governmental decisions that take race into account without good and important reasons. Therefore, equal protection **doctrine must find a way to come to grips with unconscious racism.** In pursuit of that goal, this article proposes a new test to trigger judicial recognition of race-based behavior. It posits **a connection between unconscious racism and the existence of cultural symbols that have racial meaning.** It suggests that **the "cultural meaning" of** **an** allegedly **racially discriminatory act** **is the best available analogue for, and evidence of, a collective unconscious that we cannot observe directly.** This test would thus evaluate governmental conduct to determine whether it conveys a symbolic message to which the culture attaches racial significance. A **finding that the culture thinks of an allegedly discriminatory governmental action in racial terms would also constitute a finding regarding the beliefs and motivations of the governmental actors: The actors are themselves part of the culture and presumably could not have acted without being influenced by racial considerations, even if they are unaware of their racist beliefs.** Therefore, **the** court would apply strict scrutiny. This proposal is relatively modest. It does not abandon the judicial search for unconstitutional motives, nor does it argue that all governmental action with discriminatory impact should be strictly scrutinized. Instead, it urges a more complete understanding of the nature of human motivation. While it is grounded in the Court's present focus on individual responsibility, it seeks to understand individual responsibility in light of modern insights into human personality and collective behavior. In addition, this proposal responds directly to the concern that abandoning the Washington v. Davis doctrine will invalidate a broad range of legitimate, race-neutral governmental actions. By identifying those cases where race unconsciously influences governmental action, this new test leaves untouched nonrace-dependent decisions that disproportionately burden blacks only because they are overrepresented or underrepresented among the decision's targets or beneficiaries. This **effort to inform the discriminatory intent requirement with the learning of** twentieth century **psychology is important** for at least three reasons. First, the present doctrine, **by requiring proof that the defendant was aware of his animus against blacks**, **severely limits the number of individual cases in which the courts will acknowledge and remedy racial discrimination.** Second, **the existing intent requirement's assignment of individualized fault or responsibility for the existence of racial discrimination distorts our perceptions about the causes of discrimination and leads us to think about racism in a way that advances the disease rather than combatting it. By insisting that a blameworthy perpetrator be found before the existence of racial discrimination can be acknowledged**, the Court **creates an imaginary world where discrimination does not exist unless it was consciously intended.** **And by acting as if this imaginary world was real and insisting that we participate in this fantasy, the Court and the law** it promulgates **subtly shape our perceptions of society. The decision to deny relief no longer finds its basis only in raw political power or economic self-interest; it is now justifiable on moral grounds. If there is no discrimination, there is no need for a remedy; if blacks are being treated fairly yet remain at the bottom of the socioeconomic ladder, only their own inferiority can explain their subordinate position.**

#### MUST WEIGHING - Reps Weighing

#### You should prefer the links to the representation of jury nullification versus just one instance of jury nullification for two reasons:

#### 1. The aff defends that jury nullification is a good idea and that it ought to be used, if we show a reason why the idea of jury nullification and what it represents is bad then that is a reason why the concept of jury nullification still links to the Kritik

#### 2. Representation is a prerequisite to the action it self—questioning the validity of what something represents in a larger structural way is important to understanding how the concept of jury nullification is used rather than just if the action is good in one instance.

### Impact

#### B. IMPACT: THE AFFIRMATIVE’S USE OF NULLIFICATION AS A WAY IN WHICH PEOPLE CAN SIMPLY GET OVER THEY PHSYCOLOANLTYICAL UNCONISOUSS PATHOLOGIES OF BLACKNESS ALLOWS US TO ASSUME HISTORICALLY RACIST INDIVUDALS WILL ACTU JUSTLY GIVEN THE CHOICE. [Curry] Curry, Tommy J. [doctor in Associate Professor of Philosophy, Affiliated Professor of Africana Studies, Texas A & M University] In the Fiat of Dreams: The Delusional Allure of Hope, the Reality of Anti-Black Violence and the Demands of the Anti-Ethical. 2013.

**Traditionally we have taken ethics to be**, as Henry Sidgwick’s claims, "**any rational procedure by which we determine what individual human beings 'ought'—or what is right for them**—or to seek to realize by voluntary action.”vii **This rational procedure is** however **at** **odds with the empirical reality the ethical deliberation must concern itself with. To argue,** as is often done, that the government, its citizens, or **white people should act justly, assumes that the possibility of how they could act defines their moral disposition.**  **If a white person could possibly not be racist, it does not mean that the possibility of not being racist, can be taken to mean that they are not racist. In ethical deliberations dealing with the problem of racism, it is common practice to attribute to historically racist institutions, and individuals universal moral qualities that have yet to be demonstrated. This abstraction from reality is what frames our ethical norms** **and allows us to maintain**, despite history or evidence, **that racist entities will act justly given the choice.** Under such complexities, the only ethical deliberation concerning racism must be anti-ethical, or a judgment refusing to write morality onto immoral entities.

### Alt

#### We should be antiethical and never assume white morality will save black lives.

#### [Curry] Curry, Tommy J. [doctor in Associate Professor of Philosophy, Affiliated Professor of Africana Studies, Texas A & M University] In the Fiat of Dreams: The Delusional Allure of Hope, the Reality of Anti-Black Violence and the Demands of the Anti-Ethical. 2013.

**Anti-ethics; the call to demystify the present concept of man as illusion, as delusion, and as stratagem, is the axiomatic rupture of white existence and the multiple global oppressions** like capitalism, militarism, genocide, and globalization, **that formed the evaluative nexus which allows whites to claim they are the civilized guardians of the world’s darker races. It is the rejection of white virtue,** the white’s axiomatic claim to humanity that allows the Black, the darker world to sow the seeds of consciousness towards liberation from oppression. **When white (in)humanity is no longer an obstacle** weighed against the means for liberation from racism**, the oppressed are free to overthrow the principles that suggest their paths to liberation are** immoral and hence **not possible.** To accept the oppressor as is, the white made manifest in empire, is to transform white western (hu)man from semi-deitous sovereign citizen to contingent, mortal, and un-otherable. Exposing the inhumanity of white humanity is the destruction/refusal of the disciplinary imperative for liberal reformism and dialogue as well as a rejection of the social conventions that dictate speaking as if this white person, the white person and her white people before you are in fact not racist white people, but tolerable—not like the racist white people abstracted from reality, but really spoken of in conversations about racism. The revelatory call, the coercively silenced but intuitive yearning to describe the actual reality set before Black people in an anti-Black society, is to simply say there is no negotiating the boundaries of anti-Blackness or the horizons of white supremacy. Racism, the debasement of melaninated bodies and nigger-souls, is totalizing.

ROJ: Antiethical descion maker- view the round through rejecting philosophies

ROB- Best methodology to liberate the oppressed

Now lets talk about the world of the alternative:

First, the alt functions on a level of how we understand the discourse only in this round.

#### 1. The way we have ethical deliberations is fundamentally flawed. This is shown in the AC, only a mindset shift in terms of how we explain how ethics are determined and who is included in those ethics can begin to stop the impact of black death being intertwined with white ethics.

#### Mindset shifts are good—no one literally goes in your mind—but the discussion is uniquely key to criticizing the assumptions of the aff. Changing the mindset versus having a debate about impacts form a plan that will a.) not include the black body and b.) are contingent on black death—we have a more productive discussion.

FOR 2NR- Second, antiethics is a pragmatic way for black folk to live their lives

#### Antiethics is a Survival Strategy for black folk.

Antiethics is a pragmatic way black people can live their lives. For example, I was in the car with one of my coaches in Louisiana who was black. We got pulled over by the cops. The ETHICAL thing to do would be to assume you would be treated respectfully by the police or not get shot reaching for your license. Rather, my coach was antiethical, rejected white virtue, and put his hands on the dash. The entire time, his hands did not leave. The officer even said he could, but my coach knew that if he did and it seemed like he was reaching for something, or if the cop didn’t like how he looked, he would be killed. This is Antiethics in real life, rejecting the possibility of white virtue, understanding you cannot trust entities that have been historically racist, and then taking precautions to live.

So, the alternative is unqieuly key for solving the aff in terms of the discourse within this round AND when we have these discussions, they can be used in the real world pragmatically.

## Case

Notes: They are in a dbl bind either A unconscious racism guts solvency (Lawrence and Goff), or B the aff fiats  morality onto historically racist institutions this can never be a preferable for the black

### Solvency Deficit

#### Black jurors are not selected, Empirics prove—Alabama, Louisiana, Houston, North Carolina—which means there is no nullification the aff can provide if black jurors aren’t even selected to be on the panel, the CJS systematically excludes black jurors at astonishing rates.

Adam **Liptak** <http://www.nytimes.com/2015/08/17/us/politics/exclusion-of-blacks-from-juries-raises-renewed-scrutiny.html?_r=0> Exclusion of Blacks From Juries Raises Renewed Scrutiny Adam Liptak is the Supreme Court correspondent of The New York Times. August 6th, 20**15**

In Louisiana’s Caddo Parish, where Shreveport is the parish seat, **a study** to be released Monday has **found that prosecutors used peremptory challenges three times as often to strike black potential jurors as others** during the last decade. **That is consistent with patterns researchers found earlier in Alabama, Louisiana and North Carolina, where prosecutors struck black jurors at double or triple the rates of others**. **In Georgia, prosecutors excluded every black prospective juror in a death penalty case against a black defendan**t, which the Supreme Court has agreed to review this fall. “If you repeatedly see all-white juries convict African-Americans, what does that do to public confidence in the criminal justice system?” asked Elisabeth A. Semel, the director of the death penalty clinic at the law school at the University of California, Berkeley. As police shootings of unarmed black men across the country have spurred distrust of law enforcement by many African-Americans, the new findings on jury selection bring fresh attention to a question that has long haunted the American justice system: Are criminal juries warped by racism and bias? Some legal experts said they hoped the Supreme Court would use the Georgia case to tighten the standards for peremptory challenges, which have existed for centuries and were, until a 1986 decision,[Batson v. Kentucky](https://www.law.cornell.edu/supremecourt/text/476/79), considered completely discretionary. (Judges can also dismiss potential jurors for cause, but that requires a determination that they are unfit to serve.) But **many prosecutors and defense lawyers said peremptory strikes allow them to use instinct and strategy to shape unbiased and receptive juries**. “I’m looking for people who will be open, at least, to my arguments,” said Joshua Marquis, the district attorney in Astoria, Ore. Jeff Adachi, San Francisco’s elected public defender, said peremptory challenges promote fairness. “You’re going to remove people who are biased against your client,” he said, “and the district attorney is going to remove jurors who are biased against police officers or the government.” Reprieve Australia, a group that opposes the death penalty and conducted the [Caddo Parish study](http://www.blackstrikes.com/), said the likelihood of an acquittal rose with the number of blacks on the jury. … Prospective jurors arriving at the courthouse here walk past a towering monument to the Confederacy, featuring grim likenesses of four Confederate generals. Carl Staples, a 63-year-old African-American, recalled how the monument made him feel when he reported for jury duty. “It dashes your hopes,” he said, taking a break at the gospel radio station where he works as an announcer. “It has its roots in the ideology of white supremacy.” He said much the same thing during jury selection in a 2009 death penalty case, and that played a part in his dismissal for cause. **Caddo Parish is**[**48 percent black,**](http://quickfacts.census.gov/qfd/states/22/22017.html)**and 83 percent of the defendants in the new study were black.** **But the typical 12-member criminal jury had fewer than four blacks on it, the report said**. Much of the gap had nothing to do with peremptory strikes. **Of the** 8,318 **potential jurors in the study,** which reviewed 332 trials from 2003 to 2012, only **35 percent were black.** Professor Diamond suggested reasons for this. Blacks may be less likely to be on jury lists that are drawn from voter registration records, less likely to appear when called, more likely to qualify for hardship exemptions and more likely to be disqualified for felony convictions. Still, **prosecutors** here **used peremptory strikes against 46 percent of the black potential jurors who remained, and against 15 percent of others. In 93 percent of trials, prosecutors struck a higher percentage of blacks than of others.** Dale Cox, the parish’s acting district attorney, said jury selection was more art than science and could not be quantified. “Statistics can be misleading,” he said. “There could be any number of variables that would explain those strikes that have nothing whatsoever to do with race.” The study’s findings, though, were in keeping with data from around the country. In a five-year period ending in 2010, [according to a lawsuit](http://www.eji.org/files/Complaint.pdf), **prosecutors in Houston and** Henry **Counties in Alabama used peremptory strikes to remove 82 percent of eligible black potential jurors from trials in which the death penalty was imposed**. There can be good reasons for that, said [Kent S. Scheidegger](http://www.cjlf.org/about/bioKSS.htm), a lawyer with the [Criminal Justice Legal Foundation](http://www.cjlf.org/), which generally supports prosecutors. “Opposition to the death penalty is much more common among black people, polls regularly show,” he said. Striking jurors for hesitation about capital punishment is legitimate, he continued, adding that it is largely balanced ”by defense lawyers doing exactly the same thing the other way.” In 2012, a **state trial judge in North Carolina**[**found**](https://www.aclu.org/files/assets/rja_order_12-13-12.pdf)**that prosecutors in his state** had **created a “cheat sheet” of race-neutral reasons to offer when challenged.** Among the choices were “air of defiance,” “arms folded” and monosyllabic responses. The judge, Gregory A. Weeks of Cumberland County Superior Court in Fayetteville, endorsed [**a study**](http://digitalcommons.law.msu.edu/facpubs/456/)**by law professors at Michigan State** University **examining** the **trials of** the state’s **death row** inmates in 2010. It **found that prosecutors had struck 53 percent of black potential jurors and 26 percent of others.** “**The probability of this disparity occurring in a race-neutral jury selection process is less than one in 10 trillion**,” Judge Weeks wrote. In Caddo Parish, the new study said, Mr. Cox struck black jurors at 2.7 times the rate of others over the course of 22 trials. (Mr. Cox[recently expressed](http://www.nytimes.com/2015/07/08/us/louisiana-prosecutor-becomes-blunt-spokesman-for-death-penalty.html) unusual enthusiasm for the death penalty.) He denied any improper conduct, and noted that he had never had a conviction questioned by a court or reversed because of his jury selection practices. He added that it was not always clear whether black jurors helped or hurt the prosecution. “The defendant on trial may be African-American and the victim is African-American,” he said. “That is a scenario that is 90 percent of our cases here in Shreveport. So you can see right away I want African-Americans on the jury, by and large, because they are the voice of the victim.” Of the 12 prosecutors who handled at least 20 trials, 10 were white. The highest dismissal rate was held by Brian H. Barber, a white former prosecutor who struck five times as many blacks as others. Now a judge, he did not respond to requests for comment.

#### Most low level offenders are coerced into taking plea deals, 97 percent of cases never go to trial because the system is already set up so that black people don’t get their day in court- straight turns the aff, guts all solvency because there is no one to nullify if they don’t get a trial, and shows how the structures of the CJS are inherently antiblack and nullification cannot change that

Andy **Clark** <https://www.hrw.org/news/2013/12/05/us-forced-guilty-pleas-drug-cases> US: Forced Guilty Pleas in Drug Cases Threat of Draconian Sentences Means Few Willing to Risk Trial December 5th, 20**13**

(New York) – **Federal prosecutors routinely threaten** extraordinarily **severe prison sentences to coerce drug defendants into waiving their right to trial and pleading guilty**, Human Rights Watch said in a report released today. **In the rare cases in which defendants insist on going to trial, prosecutors make good on their threats.** **Federal drug offenders convicted after trial receive sentences on average three times as long as those who accept a plea bargain,** according to new statistics developed by Human Rights Watch. The 126-page report, “[An Offer You Can’t Refuse: How US Federal Prosecutors Force Drug Defendants to Plead Guilty](http://hrw.org/node/120933),” details how prosecutors throughout the [United States](http://www.hrw.org/united-states) extract guilty pleas from federal drug defendants by charging or threatening to charge them with offenses carrying harsh mandatory sentences and by seeking additional mandatory increases to those sentences. Prosecutors offer defendants a much lower sentence in exchange for pleading guilty. Since drug defendants rarely prevail at trial, it is not surprising that **97 percent of them decide to plead guilty.** “Prosecutors give drug defendants a so-called choice – in the most egregious cases, the choice can be to plead guilty to 10 years, or risk life without parole by going to trial,” said [Jamie Fellner](http://www.hrw.org/bios/jamie-fellner), senior advisor to the US Program at Human Rights Watch and author of the report. “Prosecutors make offers few drug defendants can refuse. This is coercion pure and simple.” In the 1980s, when Congress enacted mandatory minimum sentencing statutes, lawmakers intended 10-year minimum sentences for drug kingpins and five years for mid-level traffickers. But because the laws key the sentence to the weight and type of drug, and not the specific role of the offender, **prosecutors can levy** the **same charges with the same mandatory sentence against a courier who delivers a package of drugs and the head of a drug organization** to whom the drugs are delivered. Nearly half **– 48 percent – of federal drug defendants have low-level functions such as street-level dealer** or courier, **and half to three-quarters of them are convicted of offenses carrying mandatory minimum sentences**. Prosecutors also pressure drug defendants to plead by threatening increased mandatory sentencing enhancements and penalties that are applicable if the defendant has one or more prior drug convictions or possessed a gun at the time of the offense. If the prosecutors carry out their threats, they add decades to the defendant’s time behind bars, resulting in punishments that, as one federal judge, John Gleeson of New York’s Eastern District, recently put it, are “so excessively severe they take your breath away.” In one of hundreds of cases Human Rights Watch reviewed, Sandra Avery, a small-time drug dealer, rejected a plea of 10 years for possessing 50 grams of crack cocaine with intent to deliver. The prosecutor triggered a sentencing enhancement based on her prior convictions for simple drug possession, and she was sentenced to life without parole. In addition to case reviews, the report is also based on numerous interviews with federal prosecutors, defense attorneys, and judges. It also includes new statistics developed by Human Rights Watch that provide the most recent and detailed measure of what the report calls the “trial penalty” – the difference in sentences for drug defendants who pled guilty compared with those for defendants convicted after trial. The trial penalty is, essentially, the price prosecutors make defendants pay for exercising their right to trial. **“Going to trial is a right, not a crime,**” Fellner said. “But **defendants are punished with longer sentences for exercising that right.”** **Prosecutors are able to impose the trial penalty because judges have been reduced to** virtual **bystanders in cases involving mandatory sentences.** **When prosecutors choose to pursue mandatory penalties and the defendant is convicted, judges must impose the sentences**. They cannot exercise their traditional role of tailoring sentences to each defendant’s conduct and culpability and of making sentences no longer than necessary to serve the purposes of punishment. Plea bargaining is broadly accepted largely on the pragmatic ground that if every criminal case went to trial, the overburdened criminal justice system would grind to a halt, and the US Supreme Court has accepted this logic in decisions sanctioning plea bargains. But under human rights principles – and longstanding principles of criminal justice in the United States – criminal sentences should be no greater than necessary to hold offenders accountable and protect the public. Prosecutors favor mandatory sentences because they enhance their leverage not only to get convictions via pleas, but to get defendants to cooperate with the government in the prosecution of others in exchange for a lower sentence. “**We don’t let police beat suspects to get confessions,”** said Fellner. “**Threatening someone with a life sentence can be just as coercive – and just as wrong.”**

### Doublebind

#### The aff is in a doublebind:

#### Either a) they get offense from assuming black people will be able to use nullification but the links show that plea deals and striking excludes them from being on the panel or even getting a trial which means black people aren’t even nullifying in the world of the aff

#### OR

#### b) They now have to get solvency off white people using nullification correctly because they still have to win nullification is a good idea if we win a disad to white nullification that’s a reason the entire case has no solvency and actually makes things worse

### White people cant be trusted

#### White people don’t even deliberate in courtrooms when they have to make a life or death decision—studies prove

Gilad **Edelman**, *Why Is It So Easy for Prosecutors to Strike Black Jurors*? Gilad Edelman is a graduate of Yale Law School. <http://www.newyorker.com/news/news-desk/why-is-it-so-easy-for-prosecutors-to-strike-black-jurors> June 5th, 20**15**

Research backs up the common-sense intuition that excluding black people from juries can influence verdicts. **A 2004 study** by the Capital Jury Project **found that in cases with a black defendant and a white victim, having one or more black male jurors drastically lowered the chances of a death sentence. Experiments** have **show**n **that all-white mock juries spend less time deliberating, make more factual mistakes, and are more likely to convict a minority defendant than racially diverse juries**. **These studies suggest** what some prosecutors have long assumed: **striking potential black jurors raises the odds of a black defendant being convicted and increases the penalty he is likely to receive.**

#### We’re not making an analytical claim- white people have used nullification to nullify klan members our claim is rooted in history

Jonathan **Bressler** The University of Chicago Law Review Reconstruction and the Transformation of Jury Nullification Volume 78 Fall 20**11** Number 4 © 2012 by The University of Chicago

White juries were viewed as the principal cause of Reconstruction injustice. **In Texas**, for example, **the state prosecuted five hundred whites for murdering blacks in 1865** and 1866, **but in each trial, the all-white juries acquitted every defendant**.270 In Georgia, a Freedmen’s Bureau officer conceded that the “best men in the State admit that no jury would convict a white man for killing a freedman.”271 Likewise, a Florida sheriff lamented, “If a white man kills a colored man in any of the counties of this state, you cannot convict him.”272 Judge Thomas Settle of North Carolina told Congress that the “defect lies not so much with the courts as with the juries. You cannot get a conviction; you cannot get a bill found by the grand jury; or, if you do, the petit jury acquits the parties.”273 **No matter how vigilant the civil authorities were, they could not punish white offenders because in nine cases out of ten the men who commit the crimes constitute or sit on the grand jury, either they themselves or their near relatives or friends**, sympathizers, aiders, or abettors; and if a bill is found it is next to impossible to secure a conviction upon a trial at the bar. I have heard of no instance in North Carolina where a conviction of that sort has taken place. Throughout Reconstruction, Congress was well aware of the Southern juries’ defects. Senator Edmunds said that in the South “a jury trial is a mockery; it is a shield for cruelty and crime instead of being an instrument of punishment for it.”274 Henry Pease, a carpetbag senator from Mississippi, reported that in the South a “white man may slay a negro, and it may be proven as clear as the noon-day sun that it was a case of murder with malice aforethought; and yet you cannot get a jury to convict.”275 He continued: [I]n the State of Mississippi, where our laws are executed with as much impartiality as in any other southern State, I do not know among the several hundred homicides committed in that State a single instance, since reconstruction, where a white man has been convicted of killing a negro; and I venture the assertion that there have been over five hundred murders of negroes in that State by white men, and not one of them punished.276 Some identified Southern juries’ acquittals as based on the juries’ prejudiced conception of the law rather than on outright racial animus. Alluding to Dred Scott v Sandford, 277 Senator Morton contended that most Southern whites “have been educated and taught to believe that colored men have no civil and political rights that white men are bound to respect.”278 Conceivably, some might have understood the law to permit or to require acquittals despite white violence. Indeed, one judge reported that some **whites “feel and believe, morally, socially, politically, or religiously, that it is not murder for a white man to take the life of a negro with malice aforethought**.”279 If it were serious about enforcing the Fourteenth Amendment, Congress could not allow jurors who understood the law to permit white violence to decide cases. In early 1871, as white violence and jury nullification continued, Congress held hearings on one major source of problems: **the Ku Klux Klan**. Congress heard dozens of witnesses testify and collected hundreds of pages of testimony about the organization, including its members’ manipulative behavior on juries.280 “The evidence shows that this Ku Klux organization,” Senator Morton concluded, **required its members “to commit perjury as jurors, and to acquit at all hazards one of their number who may be upon trial**.”281 Among a litany of wrongs he discovered, Representative Clinton Cobb of North Carolina condemned KKK members because as jurors “they have nullified trials by perjury.”282 Such nullification, the legislators realized, escalated violence. Where **KKK members “sit upon juries**,” Senator Thomas Osborn of Florida recognized, “outrages of the worst order, the most inhuman violence and cold-blooded murders are committed with impunity.”283 “What is the civil law to” a KKK member, asked Senator Charles Drake of Missouri, when “[h]e knows that . . . the jurors who go there will acquit him in spite of all the evidence[?]”2

The edleman 15 evidence and bressler 11 evidence also can be examples of actual ways in which the uncosuniess racism of white people has been used SPECFICALLY in the cases of jury nullification. THESE ARENT DEFENSE- TURNS WHY ASUSMING EVEN WHEN HE HAVE HISTORICAL EVIDENCE IS BAD

### Yancy

#### TURN. White philosophers now can theorize about black life by trusting them to vote their consciousness

George **YANCY**; Prof of Philosophy @ Duquesne University “Black Bodies, White Gazes *THE CONTINUING SIGNIFICANCE OF RACEJournal of Speculative Philosophy* 19.4 (2005) 215-241 20**08**

I write out of a personal existential context. This context is a profound source of knowledge connected to my "raced" body. Hence, I write froma place of lived embodied experience a site of exposure**. In philosophy,** the only thing that we are taught to expose is a weak argument, a fallacy, or someone’s “inferior” reasoning power**. The embodied self is bracketed and deemed irrelevant to theory,** superfluous and cumbersome in one's search for truth. It is best, or so **we are told, to reason from nowhere.** Hence, **the white philosopher/**author**presumes to speak for all of “us” without** the slightest **mention of his or her “raced” identity.**Self-consciously writing as a white male philosopher, Crispin Sartwell observes:  Left to my own devices, I disappear as an author. That is the **"whiteness" of** my **authorship**. This whiteness of authorship **is,** for us**, a form of authority; to speak** (apparently) **from nowhere, for everyone, is empowering,** though one wields power here only by becoming lost to oneself. But such an authorship and authority is also pleasurable: **it yields the pleasure of self-forgetting** or apparent transcendence of the mundane and the particular, and the pleasure of power expressed in the "comprehension" of a range of materials.(1998, 6)  To theorize the Black body one must "turn to the [Black] body as the radix for interpreting racial experience" (Johnson [1993, 600]). It is important to note that this particular strategy also functions as a lens through which to theorize and critique whiteness; for the Black body's "racial" experience is fundamentally linked to the oppressive modalities of the "raced" white body. However, there is no denying that my own "racial" experiences or the social performances of whiteness can become objects of critical reflection. In this paper, my objective is to describe and theorize situations where**the Black body's** subjectivity, its ***lived* reality, is reduced to instantiations of the white imaginary,** resulting in what I refer to as "the phenomenological return of the Black body." These instantiations are **embedded within** and evolve out of **the** complex **social and historical interstices of whites' efforts at self-construction** through complex acts of erasure **vis-à-vis Black people.** These acts of self-construction, however, are myths/ideological constructions predicated upon maintaining white power. As James Snead has noted, "Mythification is the replacement of history with a surrogate ideology of [white] elevation or [Black] demotion along a scale of human value"(Snead 1994,

#### TURN. Black males are pathologized within white society and are thought of as animals, the aff’s assumption that white jurors can overcome this pathology and nullify is the same hope that traps us from actually combating the pathology rather than assuming things can change with jury nullification.

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This shows us that **racism is a creative psychosis. It** grows, **reinvents,** and persuades **generation after generation** of its veracity **by establishing as fact that the sociological conditions of Black Americans arise from some natural essence in Blackness.** This is how **Black inferiority comes to mean that which is animalistic,** criminal, and violent; a **threat to whites and white society.** It obligates that which is white to preserve itself, and the society to confine . **The white American, not as an individual but as a function of its political design, lives out democracy through creating and protecting the anti-Black rationalizations of the society**. For example, while the history of the Ku Klux Klan (both men’s and women’s organizations) have become synonymous with violence and terrorism in American history, there was a deliberate attempt to justify such violence through white womanhood. Williams recognized this as central to the legitimacy given by whites to make terrorism against Blacks, specifically Black men, permissible. Williams notes: People have asked why a racist would take his wife into a riot-torn community like ours on that Sunday. But this is nothing new to those who know the nature of Klan raiding. Many Southern racists consider white women a form of insulation because of the old tradition that a Negro is supposed to be intimidated by a white woman and will not dare to offend her. White women are taken along on Klan raids so that if anything develops into a fight it will appear that the Negro attacked a woman and the Klansman will of course be her protector.61 This violence against the Black community, engineered upon the sacredness of white womanhood—the stratagems deployed to justify its execution—identifies a meaningful aspect of white savagery towards Black people. **There is an appeal to the** caricatures of the **white public—the shared mythology learned by white individuals as children—as if the figments**/pigments **of their imagination are real. When violence is committed against Black Americans, especially Black men** as in the case of Michael Brown, Trayvon Martin, Tamir Rice, etc., **the act of killing the Black beast reassures the white public of the reality of their phobias**. As Williams argues: “The architect of the social jungle has been caught in the spiral of his own web. Thus, in his brutal handiwork to reduce the Black man to a miserable bundle of docile and submissive inferiority complexes, the white man has become a victim of his own brutality. He has transformed his nature to that of a raging, ferocious beast. His very conduct has given him a hate complex tempered with guilt.”62 **This is the complexity obstructing moral appeal and sympathy towards Blacks. Blacks merely become disposable things—the conquering of the whites’ fear of these haunting shadows**. (62-63)